

MINUTES
BOARD OF FORESTRY
October 4, 5, & 6, 1999
Sacramento, California

MEMBERS PRESENT: Robert J. Kerstiens, Chairman
Stan Dixon
Raymond Flynn
Robert Heald
Kirk Marckwald
Tharon O'Dell
Darryl Young

BOARD STAFF PRESENT: Christopher P. Rowney
Executive Officer
Daniel R. Sendek
Executive Officer, Foresters Licensing
Fran Henson, Committee Consultant
Donna Stadler, Executive Assistant

DEPARTMENTAL STAFF: Andrea Tuttle, Director
Woody Allshouse, Chief Deputy Director
Ross Johnson, Deputy Director
Resource Management
Dean Lucke, Assistant Deputy Director
Dennis Hall, Regulations Coordinator

CALL TO ORDER

Chairman Kerstiens called the October 1999 Board of Forestry and Fire Protection meeting to order.

MINUTES

Chairman Kerstiens asked for approval of the Board's September 1999 minutes. He noted that there were two sets of September minutes; one for the regular Board meeting and the other for a special hearing held on September 14, 1999.

99-09-1 Mr. Flynn moved to approve both sets of September 1999 minutes as amended. Mr. Marckwald seconded the motion, and all were in favor.

CHAIRMAN'S REPORT

Chairman Kerstiens reported that he had the opportunity to go with the CDF personnel to visit the Gun-2 fire. So far it has burned between 50,000 and 60,000 acres in the Ishi wildlife and is still burning. He said that he worked with the ICS Fire Team Four. Representatives from the Nature Conservancy were also there. He then said that he wrote a letter to the Department expressing how impressive the operation was.

Chairman Kerstiens reported that the Interim Committee would continue to be chaired by member Heald with member O'Dell as vice chair and members Flynn, Young, and Marckwald.

DIRECTOR'S REPORT

Director Tuttle said that it was a very busy fire season for the Department. She gave thanks to all who are working so hard during this time. She expressed a desire to have people that work for CDF come before the Board and explain their duties. The first would be someone to talk about the Y2K compliance efforts. She said that the Department is treating it as an incident. Next she would provide someone from Aviation Management to speak to the Board.

Director Tuttle said that the Governor signed SB 621 and explained what this Legislation would mean.

Director Tuttle reported that the Department has 2.2 million dollars available in CFIP funds for small landowners in the State. The Department is doing everything it can to get people to apply for these funds.

Director Tuttle announced the appointment of Louis Blumberg, Deputy Director for Public Affairs. She said that Mr. Blumberg would be working out of the Executive Offices.

Woody Allshouse, Chief Deputy Director, provided an update on the fire situation. He said that the fire activity this year is higher than in the past several years. He then reviewed the fires currently burning throughout the state.

There was some discussion regarding the fire shelter.

Chief Allshouse said that there have not been any fatalities from the fire shelter being used when it was deployed properly. He then reported that Fire Captain Leo Zupancic from the Tuolumne-Calaveras Ranger Unit suffered a severe back injury in an engine rollover.

Chief Allshouse continued to review his report for the Board.

Director Tuttle reported to the Board that Craig Anthony has left CDF to go to work for Pacific Lumber Company.

Mr. Tim Turner, CDF Chief of the Sierra South Region, provided a copy of his report and reviewed it for the Board. He then reviewed the incident situation with the Board.

Mr. Glen Newman, CDF Chief of the Coast-Cascade Region, provided a copy of his report and reviewed it for the Board. He also provided a copy of an article on the die back problem and reviewed it with the Board.

Mr. Rowney said that a representative from the U.C. Extension Integrated Hardwood Range Management Program would make a presentation on this issue to the Board next month.

Chief Newman provided the Board with maps showing the location of the current fires.

There was some further discussion.

REPORT OF THE USDA FOREST SERVICE (USFS)

Ms. Karen Barnette, Assistant to the Regional Forester, said that the USFS has expanded its fire fighting capabilities. She said that there would be a briefing on October 26, 1999, at the Sacramento Inn, Sacramento. Also, on November 16, 1999, there would be a Town Meeting here in Sacramento. She said that a letter would be forthcoming explaining the meeting—there would be some significant changes. Next, she said that the Secretary of Agriculture would be holding a series of Natural Resource Forums across the country. One is scheduled for Sacramento and CDF and the Board were recommended as potential participants.

Mr. Ray Quintanar, USFS Assistant Regional Forester, reviewed some of the issues the USFS has been facing during this fire siege.

Mr. Ken Blonski, USFS Deputy Director of Fire and Aviation Management, provided the Board with an overview of the USFS capabilities and the collaborative efforts being conducted.

Mr. Quintanar reported that the USFS had approximately 500 smokejumpers this year covering three quarters of the state. He said that initial attack is the number one priority. He then said that on November 23, 1999, a focus group regarding several current issues would be meeting in Sacramento and that the Board and CDF would be invited to attend.

Mr. Quintanar reviewed the injuries sustained by USFS fire fighters this season.

STANDING COMMITTEE REPORTS

INTERIM COMMITTEE

Mr. Heald, Chair of the Interim Committee, said that the Redwood Creek landowners' presentation was dealing with TMDLs in a pro-active way. Next, the Committee reviewed the Agency package addressing Threatened and Impaired Watersheds. The group represented 85 percent of the landowners in the drainage. The Committee recommends that it needs additional time to review the package. He said that the National Marine Fisheries Service (NMFS) wants the Board to pass for January 1, 2000, implementation. However, the majority of the Committee believes that it needs additional time to consider the proposal. The Committee then discussed the Coho Consideration package. He reminded the Board that all options in the Coho package have been noticed. Under New and Unfinished Business, the Committee discussed the concerns expressed by NMFS.

Board staff was directed to prepare a notice on the Registered Professional Forester responsibilities.

HEARING: To Consider Amendments to Section 895., *et seq.*, 916 *et seq.*, and 923 *et seq.* of the Title 14 of the California Code of Regulations

Chairman Kerstiens read his opening remarks regarding the order of hearing into the record.

Director Tuttle, on behalf of the Agency, spoke to the issue. She said that the reason for the proposal remains the same. The signing of SB 621 gives a little more time. Making a decision by the March meeting would allow implementation in July 2000.

Mr. Ross Johnson, Deputy Director for Resource Management, said that the Department would be available to answer any questions that may come up.

Mr. Joe Blum, National Marine Fishery Service (NMFS), thanked the Interim Committee for its work on the package. He expressed concern over the decision to continue the discussions. NMFS believes that there would be serious consequences if the Board does not take action. The winter operations, spawning, and rearing habitat are just some of the concerns. He believes that the resources would be at risk. He then said that another consequence might be a 4(d) rule related to the listing of the Salmon on the North Coast would not be considered for California if the Board does not take action. The industry would be at a disadvantage. He then urged the Board to reject the recommendation of the Interim Committee and take action today. NMFS knows that the package is not perfect, but there is a need to take action.

Mr. Marckwald said that the consequences on the resources are very important. However, it would be useful to hear what the concerns are.

Mr. Dixon asked if Mr. Blum would elaborate on the 4(d) rule concern.

Mr. Marckwald asked if the piecemeal approach to addressing the Science Review Panel recommendations worked for NMFS.

Mr. Blum said that NMFS wanted the full package, but if the Board does nothing today, then that would send the message that nothing would get done. The piecemeal approach would be better than nothing.

Mr. Young asked what other states have done who qualify for the 4(d) rule.

Mr. Blum presented a short summary of the Washington and Oregon programs.

Mr. O'Dell explained that Washington was moving on the issue. They had 18 months after emergency rules to put rules in place. He said that Oregon had a White Paper out addressing the issues.

Mr. Blum said that NMFS is asking the Board to go ahead with this package.

Mr. Bernie Bush, Simpson Timber Company, referred to Simpson's written comments of last month. He said that they believe that the Forest Practice Rules are effective. This rules package could be the issue that put California at a disadvantage with other states. Simpson believes that this package needs more time in the Interim Committee.

Ms. Vivian Bolin, Pacific Coast Fishermen's Association, said that Salmon fishing was depleted and that streams are a mess and fishermen are losing jobs. The current rules have not protected the salmon. She urged the Board to adopt what it can today.

Mr. Steve Horner, Barnum Timber Company, said that the Board should delay adoption and conduct an in-depth analysis including input from private landowners and county governments. Barnum Timber believes that the package should go to the Board's Ecosystem Management Committee for further study.

Mr. Felice Pace, Klamath Forest Alliance and coordinator of the Klamath River Program (KFA), provided written comments for the Board. The KFA asked that the Board formally consider the "Landowners Options" alternative, as outlined in its written comments, before adopting any rule for the "Protection of Threatened and Impaired Watershed."

Mr. Mark Deming, Santa Cruz County, provided written comments to the Board. He said that Santa Cruz County supports the adoption of the proposed rules package.

Mr. Richard Gienger provided the Board with a handout and said that he supports "Option A." He believes that the Board has not had enough time to review the package. The Board needs to take action.

Mr. Mark Rentz, California Forestry Association (CFA), said that CFA continues to oppose the rules package. He compared Oregon to California and said that he believes that other states use California's rules as an example. AB 621 is out there for enforcement, and there are more people on the ground. CFA believes that the package should go to the Ecosystem Management Committee for further consideration.

Mr. Alan Levine, Coast Action Group, provided the Board with a handout reviewing the recent THP history of the Garcia watershed. The Coast Action Group believes that the Board was violating the Clean Water Act. He then reviewed his handout for the Board.

Mr. Rob DiPerna, Earth First, said that the Board should take action on this package and then halt production.

Mr. Craig Bell, Salmon Federation Restoration, expressed concern regarding the MOU and Steelhead listing. He said that if the Steelhead were listed, then 100,000 Steelhead anglers would be lost to California.

Mr. Bob Ryneerson, Beaty and Associates, said that Beaty and Associates had submitted three letters on the 45-Day and the 15-Day Notices and their position remains the same. He asked that the Board reject the rules package and send it to the Ecosystem Management Committee to address the concerns.

Mr. Frank Barron, Northern California Society of American Foresters (NorCalSAF), referred the Board to their written comments of September 7, 1999. In order for this package to have a thorough review of necessity, economic impacts, and applicability statewide, it is necessary to have the full Board and full Committee consideration.

Mr. Jim Ostrowski, California Licensed Foresters Association (CLFA), referred to the written comments of October 1, 1999. He said that the package is flawed. The one size fits all would not work. There needs to be a task force with public and agencies to look at all of the suggestions.

Mr. Bob Berlage, Big Creek Lumber Company, said that Big Creek was opposed to both the language in the 45-Day and the 15-Day Notices. The economics make it impossible to maintain business. The package should go back to the Ecosystem Management Committee.

Ms. Rose Taylor said that she was speaking for the Children and the problems facing this planet. She believes that forestry in California is being systematically destroyed. She said that Board is betraying public trust and the timber industry would destroy everything.

Mr. Dave Casebeer asked the Board to take action before it is too late for everyone.

Ms. Mary Jo Brooks reminded the Board that its obligation is to the public and the commonwealth.

Mr. Dan Weldon, Forest Landowners of California (FLOC), said that the 15-Day Notice language was a disappointment. He then reviewed items that were not addressed in the notice. The existing Forest Practice Rules are adequate as shown in the MSG report.

Mr. Mike Robins, Forest Forever, asked that the Board adopt the Coho considerations, 1999 package.

Mr. Kevin Bundy, EPIC, said that the 15-Day Notice did not address all of the issues. "Take" of Coho is illegal. He believes that the rules have problems and if the Board does not take action today to strengthen this package, the salmon, water quality, and the fishing industry will suffer.

Mr. Wayne Whitlock, Pillsbury, Madison, and Sutro and representing the Forest Resource Council, said that adopting these rules are not enough. The Board has other obligations. He said that the MSG report is the only scientific report available. The Board needs to go back and examine the parameters of the package. He then urged the Board to direct staff to go back and analyze the effects of the package.

Mr. Tim Treichelt, Georgia-Pacific (GP), said that the comments that GP submitted on the 45-Day Notice included a five-year study on the Ten-Mile watershed in Mendocino County. It was submitted to illustrate the point that the watershed is in good shape. The proposed rules are not necessary for the watershed. GP has been working on an HCP that GP believes did not go through due to lack of understanding that the NMFS has on the protections that exist within the Forest Practice Act. GP does not believe that the Board should go ahead with the NMFS recommendations until further study can be done.

Ms. Ronda Lucas, California Farm Bureau Federation (CFBF), said that the CFBF was not happy with the 15-Day Noticed language. Referring to her written comments, she said that all of the questions submitted by the CFBF in September 1999 remain unanswered. She said that the package fails to meet the clarity standards of the Office of Administrative Law and lacks the necessity to meet the regulations in the Forest Practice Act. She recommended that the package be sent back to the Ecosystem Management Committee.

Ms. Traci Thiele said that there was only one letter in favor of the package and 153 against. She said that it was time to stop illegal logging.

Ms. Kathy Bailey, Sierra Club, said that there is a crisis and urged the Board to do what it can today.

Mr. Barak Gale said that everything was connected. He asked that the Board be guided by wisdom.

Mr. O'Dell asked for direction.

Mr. Christopher Rowney, Executive Officer for the Board, said that the Board could close the public hearing, or continue it and leave it open on this 15-Day Notice, or could re-notice the package with new modifications within the scope of the 45-Day Notice. The 45-Day Notice remains in effect for a full year from the date of publication. The Board could reject the package, adopt the package, or adopt portions of the package, or could close the hearing and send the package back to committee. The Board could maintain the hearing open, but that would leave the 15-Day notice open as well, and continue discussion either before the full Board or a Committee of the Board.

Mr. Young said that he believes that the hearing should be closed.

99-10-2 Mr. O'Dell moved to close the public hearing. Mr. Marckwald seconded the motion, and all were in favor.

Mr. Dixon said that he would like to see that package back in the Interim Committee. He said that he has questions as to the impacts of SB 621, and believes that the Board should look at the Sierra Club's concerns. Also, the economic impacts should be considered as well as incentives and motivations.

Mr. Marckwald said that he was disappointed that the Board was not in a position to act today. However, the Board has a responsibility to move with dispatch and if it cannot come to a common framework that makes sense, then it would need to deal with that. He was in favor of getting the package ready for March.

99-10-3 Mr. Young moved to send the package back to the Interim Committee. Mr. Dixon seconded the motion, and all were in favor.

NEW AND UNFINISHED BUSINESS

There was some further discussion regarding dates for the Interim Committee to continue its discussion of the Threatened and Impaired Watershed package, and noticing requirements.

Ms. Deborah Barnes, Deputy Attorney General and Counsel to the Board, explained the noticing requirements. She said that a separate Interim Committee meeting should be noticed for later in the month or the following month. The public hearing has been closed, however, it could be reopened, or the Board could continue to discuss the rule package as an agenda item from one of the Committees at a later date.

There was further discussion on when to continue discussion of the package.

Mr. Christopher Rowney, Executive Officer of the Board, reported that the Auditorium would be available for an Interim Committee meeting on Thursday, October 21, 1999, which would also allow time for noticing. The Interim Committee would be scheduled for November 1, during the regular Board meeting and could be scheduled for an addition meeting on November 15, if necessary to continue its discussion on the Threatened and Impaired Watershed package.

It was agreed to notice an Interim Committee meeting for October 21, 1999, beginning 9:00 a.m. in Sacramento to continue discussion of the aforementioned package.

REPORT OF THE EXECUTIVE SESSION

Chairman Kerstiens reported on the Executive Session.

INITIAL HEARING: to Consider an Appeal by the County of Santa Cruz of Approval of Timber Harvest Plan 1-99-240 SCR

Chairman Kerstiens read his opening remarks regarding the order of hearing into the record.

Mr. Mark Deming, Santa Cruz County, said that the County had appealed THP 1-99-240 SCR on the same grounds, not complying with County ordinance with respect to riparian corridors, as 1-99-NTMP-003 SCR. The County requests that the Board schedule this for public hearing preferably on the same day as 1-99-NTMP-003 SCR.

Mr. Dean Lucke, CDF Deputy Director of Forest Practices, said that the issues are very similar. The Department suggests that this be heard at the same time as the NTMP hearing.

Ms. Wendy Breckon, CDF Legal Counsel, said that she would address both THP 1-99-240 SCR and THP 1-99-009 SCR since both issues are the same. She said that CDF believes that the Santa Cruz County Ordinance is preempted by the Forest Practice Act and are implementing rules adopted by the Board. She said that the County Ordinance conflicts with the authority of the Board. CDF believes that Santa Cruz County is trying to use its zoning ordinance to regulate the conduct of timber harvesting under the guise of controlling the location of timber operations. She then said that the issue raised should be given a full hearing.

Mr. Dennis Kehoe, attorney representing the plan submitter, said that the issue is a little different in that the landowner's wife and daughter live on the property. The property had been harvested twice before. He then provided some background for the Board members. The small landowner is trying to make a living. The County had a pre-harvest inspection on the property. The County did not file a notice of non-concurrence. If there would have been an environmental problem with the THP, the County could have gone to CDF for response. There was no notification or concern expressed about the environment, public health, safety, or welfare. The only reason for the appeal to this THP is the County Ordinance 4529. He said that the Board, in November 1998, adopted some of the rule amendments, but not the one regarding the "no cut" rule. This is the same as in the ordinance that the County wants the Board to honor. He then read from the Board's Notice of Decision response number two. He said that the County of Santa Cruz is highly regulated by this Board. Mr. Kehoe asked that this Board to deny this appeal at this point in time.

Mr. Matt Bissell, RPF, said that this is a 20-acre THP on 22 acres and the owners live on the property. Full notice had been given and there were no objections. He gave a brief overview of the THP. The existing rules are protecting and enhancing the environment in Santa Cruz County.

Mr. Dennis Pelphrey, landowner, said that he had owned the property since 1974. He then reviewed the history of the property for the Board. The County is taking half of his income.

Mr. O'Dell asked the landowner if his intent was to have the plan operated and winterized before the fall rains started.

Mr. Pelphrey said that it was.

Mr. Mark Rentz, California Forestry Association (CFA), said that CFA urges the Board to reject the appeal and not hold over for further discussion. His comments were on both appeals. He said the court, in the case of Big Creek vs. Santa Cruz County, upheld the thousand-foot buffer due to a conflict in zoning. This is not a conflict in zoning, but a concern over the environmental effects of the logging operations. The County did not file the non-concurrence with CDF. He then urged that the Board reject this package.

Ms. Deborah Barnes, Deputy Attorney General and Counsel for the Board, said that not filing a non-concurrence does not deprive the County of the right to appeal to the Board.

Mr. Deming said that the ordinance adopted December 1998 would expire December 21, 1999. Many RPFs are now excluding riparian areas from THPs with the caveat that they will be reviewed if the issue is settled.

Mr. Rentz said that CFA agrees that the County could still bring the appeal to the Board. However, the fact that they did not file a non-concurrence should weigh heavily with the Board in making its decision not to move ahead.

Mr. Young asked why the County did not file a non-concurrence.

Mr. Deming said that it was an oversight.

Mr. Kehoe said that the County representatives were there on the pre-harvest inspections. They did not make any written comments and did not file a non-concurrence. There are four layers of sub-district rules in Santa Cruz County—the County is highly regulated. He asked that the Board please deny the appeal.

Mr. Lucke said that the Department has no further comments.

Mr. Heald asked how long of an operation period does the plan covered.

Mr. Roger Thompson, CDF, said that is was a three-year plan.

Mr. Heald then asked about the volume.

Mr. Bissell said that about 20 percent of the volume is in WLPZ.

Mr. Dixon asked if the operations have begun.

Mr. O'Dell asked how many RPFs volunteered to comply with the ordinance.

Mr. Thompson said that only one RPF volunteered with a caveat that if the ordinance proves to be unconstitutional he then reserves the right to add those areas back in. He said that about 30 to 40 plans have been processed over one year.

Mr. Bissell said that he had not taken cost estimates. He said that he thinks it is about 20 percent of the volume in the area.

Mr. Heald said that the County has made a case that there is a reason to grant the appellants a hearing. There are potential Coho habitat and stream problems. He said that he believes that the case would be moot and not warrant an appeal if the plan submitter would agree to amend the plan not to fall any more trees with the WLPZ.

Mr. Deming explained the process and timeline for the Board.

Mr. O'Dell asked if that was a minor amendment to the plan.

Mr. Lucke said that it would be a minor amendment if he deleting an area from the harvest area.

Mr. Kehoe said that without waiving the owners rights, he will agree not to harvest in the two riparian corridors providing that he can timber the remaining area.

Mr. Deming said that under those conditions, the County would have no problems with the arrangement. He said that the County would like a letter regarding the minor amendment.

Mr. Flynn asked if there wasn't a violation of the ordinance.

Mr. Deming said that there was, however, it was not a violation of the Board's regulations. It would have to be pursued as a civil action. Under the circumstances stated above, the County would be willing to withdraw its appeal. Under the agreement between the plan submitter and his attorney, the County would agree to withdraw its appeal, providing it is made in writing.

Mr. Rowney asked if the County was suggesting that the appeal hearing be continued until such time as it receives the written agreement and then it would withdraw the appeal or, on failure to receive that agreement, continue with the initial appeal hearing.

Mr. Deming said that the County would like a request for the minor amendment. That would be a letter from CDF requesting the change. If this hearing could be continued until after the next agenda item, then CDF will give it to the County in writing.

Chairman Kerstiens agreed to the continuance.

INITIAL HEARING: to Consider an Appeal by the County of Santa Cruz of Approval of Timber Harvest Plan 1-99-009 SCR

Chairman Kerstiens read his opening remarks regarding the order of hearing into the record.

Mr. Mark Deming, Santa Cruz County, said that the County filed a letter of non-concurrence in April, May, and July on this plan. He asked that the Board set a hearing so that this issue could be resolved. He then provided some background for the Board. The County wanted a hearing to be held on October 22, 1999.

Mr. Dean Lucke, CDF, said that the issue that the Department has is the same as in the Timber Harvest Plan 1-99-240 SCR.

Mr. Eric Huff, Big Creek Lumber Company, said that he was the RPF of record. This THP is a good plan. The dumpsite was not in the current landowner's plan. However, they are voluntarily clearing it up. Initially the landowner considered no-cut in Class I areas, however, the ordinance carried over to Class III areas. Most of the timber is locked up in the Class III watercourse. They cannot clean up if they cannot cut in the Class III area. The Department of Fish and Game and Division of Mines and Geology agree on the mitigations.

Mr. Flynn asked about the response from landowners downstream.

Mr. Huff said that there have been no negative comments.

Mr. O'Dell asked how many Class III's there were.

Mr. Huff said that there were about seven or eight Class III's. He said that all the ground was in TPZ. The adjacent property was logged last year.

Mr. Heald asked about the exemptions.

Ms. Katherine Floriano, plan submitter, said that they were a non-profit research and training organization—K-8 violence prevention. The funds from the harvest would go back into the property. She said that the previous landowner created the dumpsite.

Mr. Lucke said that the dumpsite was found during the pre-harvest inspection.

Mr. Bob Berlage, Big Creek Lumber Company, said that there are many potential perimeters of "value judgement" zoning. They are political issues, not environmental. He urged the Board to reject the appeal.

Mr. Mark Rentz, California Forestry Association (CFA), said that CFA comments remain the same, please reject the plan. The 2090 Agreement had expired, but the RPF incorporated it into the plan even though the 2090 was more restrictive.

Mr. O'Dell asked if there was an environmental disclosure when the current owners bought the land.

Mr. Deming said that the dumpsite was unknown.

Mr. Flynn said that this plan has the same problems as THP 1-99-003 SCR and believes that a full hearing is in order.

99-10-4 Mr. Heald moved to close the public hearing. Mr. Flynn seconded the motion, and all were in favor.

99-10-5 Mr. Heald moved to grant the appeal hearing. Mr. Flynn seconded the motion, and all were in favor except member O'Dell who abstained.

Mr. Rowney recommended a panel of the Board hear THP 1-99-003 SCR and THP 1-99-009 at the same time, because there would be some members that would not be available on October 22, 1999. Or the Board could hold the hearing as a full Board at its November meeting.

Ms. Deborah Barnes, Deputy Attorney General and Counsel for the Board, said that due to noticing, the full Board was required to hear the NTMP.

Mr. Heald asked if it could be noticed for change.

There was some further discussion exploring the possibility of teleconferencing.

99-10-6 Mr. Young moved to continue the discussion on THP 1-99-009 with a Subcommittee of the Board on October 22, 1999. Mr. Heald seconded the motion, and all were in favor.

The motion was then rescinded and it was agreed to hold both hearings during the November 1999 Board meeting.

Mr. Deming said that the County would agree to move the NTMP hearing date if both hearings could be at the same time.

CONTINUED INITIAL HEARING: to Consider an Appeal by the County of Santa Cruz of Approval of Timber Harvest Plan 1-99-240 SCR

Mr. Kehoe said that regarding the THP 1-99-240 SCR, on behalf of the Redwood Christian Park, the plan submitter agrees not to cut any more trees within the riparian corridors until the issue with the County ordinance was settled. A letter has been prepared.

Mr. Deming said that the agreement says that Mr. Pelphrey can remove the trees he has already felled. They withdraw the appeal.

HEARING: to Consider Amendments to Sections 895.1 *et. seq.* regarding the proposed *Coho Considerations, 1999*

Chairman Kerstiens read his opening remarks regarding the order of hearing into the record.

Mr. Richard Gienger provided some background for the Board and said that the package had been reviewed and amended several times. He said that the package is the first step in dealing with cumulative effects. He then reviewed portions of the Science Review Panel's report for the Board and provided an overview of various rule sections. Mr. Gienger urged the Board to support the package in its entirety and said that it provides a basis for future changes to the rules.

Mr. Joe Blum, National Marines Fisheries Service (NMFS), said that the NMFS urges the Board to adopt the package in its entirety. The package comes as close as possible to a level playing field and the NMFS strongly urges the Board's support. He then reviewed portions of the package for the Board.

Mr. Jerry Ahlstrom, CDF, said that the difficulty for the Department is not the way the rules are written, but CDF needs to be able to put the rule on the ground and enforce it. He then reviewed concerns that CDF has with various sections. He brought several definitions to the Board's attention. He asked that the Board consider the proposed map scale. There is a workload increase to the Department and to the public. On page one lines 7-18, CDF's recommendation was to apply specific abbreviations to each case in order to ensure that each rule really applies to each plan mentioned. On page eight, line 15, strike the word "appropriately." Page 15, lines 11-37, the Department prefers Alternative Two for clarity. He continued with 916.4 Watercourse and Lake Protection. Page 17, line 45, *et seq.*, the Department believes that there are several important issues regarding application and definition that must be resolved before the Department can enforce any of this rule's alternatives.

Mr. Marty Berbach, Department of Fish and Game (DFG), said that DFG supports the package and urged the Board to adopt it today. He then reviewed some sections for clarity.

Mr. Gaylon Lee, State Water Resources Control Board (SWRCB), said that he shared the concerns of CDF, but supports the broader intent of the rules. He believed that there are terms that are not readily understandable. He said that in Watercourse and Lake Protection Zones, there is more than just one methodology for habitat typing. However, it is important that the measurements that are required are meaningful. He then reviewed Section 916 and said that the SWRCB prefers Alternative Two. In Section 916.2, the SWRCB recommended that the Board take the Agency language and not the language in the Coho Consideration package.

Mr. Doug Ferrier, Consulting Forester, also representing the California Chapter of the Association of Consulting Foresters of America, referred to their letter of September 29, 1999. He then showed a map as an example of a THP. He said that the Board should not look at this package without looking at the Threatened and Impaired rules proposal and the Sierra Club proposed rule packages.

Mr. Rob DiPerna, Earth First, said that he believes that the cumulative impacts are not being properly assessed. He said that this is the right package.

Mr. Alan Levine, Coast Action Group, said that they support the Coho 1999 package. He said that the information presently required in the THP is not enough.

Mr. Steve Christianson spoke in support of the package and said that it is time to implement data collection on habitat types.

Mr. Roger Levy said that the forests are dying. He supports the package.

Shunka said that he represented Julia Butterfly. He said that there needs to be real protection for the forests and peoples lives.

Mr. Jim Ostrowski, California Licensed Foresters Association (CLFA), provided the Board with a letter dated October 1, 1999, that addresses the package. CLFA urged the Board to reject the package and start over and address the issue with a process using real data to get real solutions.

Mr. Bernie Bush, Simpson Timber Company, said that three out of the current seven Board members have had any exposure to this rule package. He reminded the Board that last year Director Wilson developed a task force to address cumulative effects and that report has not come forward as yet.

Mr. Zeke Grader called for the adoption of the rule package now. He said that the current THP rules were not adequate for Coho and other salmonid species. Adopt now and amend later.

Ms. Traci Thiele, Humboldt Watershed Council, said that the rule package has been scrutinized word for word and CDF has had many opportunities to correct the language. She then urged the Board to adopt the package for the people.

Mr. Kevin Bundy, EPIC, said that the Board knows that the right thing to do is to adopt the rule package.

Mary Bull spoke in support of the package.

Mr. Steve Horner said that there was a lack of data and access to data. There is no consensus on monitoring methodology. He suggested that the adoption be put off and more studies done.

Mr. Frank Barron, RPF, also representing NorCal SAF, said that NorCal SAF is against the package.

Mr. Pete Harrison, Forests Forever, asked that the Board approve the Coho package today.

Ms. Kristin Kirk, Forests Forever, said that she needed protection on her watershed. The right decision is to adopt this package.

Mr. Wayne Whitlock, Pillsbury, Madison, and Sutro, said that they believe that the package has some issues that need to be addressed. There are terms that need defining. They believe that there are some inconsistencies with CEQA.

Mr. Kent Stromsmoe expressed concern that a political process was delaying a very mature package. He said that the package was ready to be adopted.

Mr. Dan Weldon, Forest Landowners of California (FLOC), said that the FLOC comments were designed to oppose the package. He urged the Board to reject the package.

Ms. Kathy Baily, Sierra Club, said that it was important to move something now.

Mr. Mark Rentz, California Forestry Association (CFA), said that the package still needs work for clarity and, therefore, appropriate application. He then reviewed the CFA written comments. CFA believes that the efforts being made by the Department's Task Force need to be completed. CDF strongly supports continuing education.

Mr. Jerry Ahlstrom, CDF, reviewed the "plan" definition for the Board.

Mr. Richard Gienger said that the deletion of 895.1 is acceptable. He said that the package is good first step. It does not address the whole watershed issue, but is a basis to build on.

Mr. Heald said that he believes that there are some parts of the package that should not be adopted today. He then reviewed parts of the package that the Interim Committee could recommend for adoption. He recommended that the Board adopt the majority and defer some sections.

Mr. O'Dell said that the Interim Committee devoted most of its time to the Agency package and he would not be comfortable recommending passage of the package at this time. He said that this was the first hearing and believes that the Board should re-notice the package.

Mr. Flynn said that he would like further discussion on this package. Some of the questions brought up by CDF should be answered. He believed that a piecemeal approach is possible although not preferable.

Mr. Heald said that he understands the reluctance not to send everything forward. However, there are portions that he believes should be passed. He then reviewed several sections with the Board.

99-10-7 Mr. Heald moved to approve adoption amendments of 897; 898.1; 912.9; Technical Addendum II, less the word "appropriately"; 916, alternative two added sentences only; and 916.4. Mr. Marckwald seconded the motion.

Mr. O'Dell said that the passage of section 916.4, and the language on page 15 is premature. The intent section is less burdensome to move at this time.

Mr. Heald amended his motion to exclude the 916.4, portion. Also, 916.2 was not part of the motion.

Chairman Kerstiens called for a roll call vote.

Heald	Aye
Marckwald	Aye
Young	Abstained
Dixon	Aye
Flynn	Aye
O'Dell	Nay
Kerstiens	Aye

The motion carried 5-1 with one abstention.

99-10-8 Mr. Heald moved to adopt the original language under 916.4 beginning on page 16 deleting on page 17 the words “both” and “Resident.”

Mr. O'Dell said that the he believes that the mapping scale section is unnecessary and inappropriate.

Mr. Flynn asked if the motion included the definition of “plan.” He said that he believes that it should be done on a watershed basis. It should not be the responsibility to the landowner.

Mr. Heald withdrew his motion.

99-10-9 Mr. Young moved to close the public hearing. Mr. Flynn seconded the motion, and all were in favor.

Mr. Rowney reviewed the process for the remaining portions of the rule proposal.

APPOINTMENT TO FILL VACACY ON PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)

Mr. Daniel R. Sendek, Executive Officer for Professional Foresters Registration, reported that on October 14, 1999, PFEC member, Kathleen Schori submitted her resignation. There have been three nominations for the Registered Professional Forester (RPF) position on the PFEC.

Mr. Heald said that the Committee believes that any of the three nominees would make a good member. He said that at this time, the PFEC needs someone who is an RPF and believes that Tom Osipowich would be very good at the position.

99-10-10 Mr. O'Dell moved to appoint Tom Osipowich to the PFEC as the CDF member. Mr. Flynn seconded the motion, and all were in favor.

ADVISORY COMMITTEE REPORTS

PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)

Mr. Daniel R. Sendek, Executive Officer for Professional Foresters Registration, referred to the Board's binder and the RPF Vital Statistics. He asked that the Board grant the requested Voluntary Relinquishments.

99-10-11 Mr. O'Dell moved to approve the Voluntary Relinquishments of Robert Breazeale, RPF 1581; Edwin Gregg, RPF 343; and John Olson, RPF 87. Mr. Heald seconded the motion, and all were in favor.

Mr. Sendek then reported the passing of Registered Professional Forester Sidney Hatler, RPF 1635.

APPOINTMENT TO FILL VACACY ON RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)

Mr. Christopher Rowney, Executive Officer for the Board reported for the RMAC. He referred to the Board's binder and the nominees to the open RMAC public member position. He then noted that the Committee's recommendation for the position was Mr. Connor.

99-10-12 Mr. O'Dell moved to appoint John Michael Connor to the public position on the Range Management Advisory Committee. Mr. Dixon seconded the motion, and all were in favor.

CALIFORNIA FOREST PEST COUNCIL (CFPC)

Mr. Bernie Bush reported for the CFPC. He said that the Pest Council's 48th Annual meeting would be held on November 18 and 19, 1999, at the Sacramento Hilton.

Mr. Bush said that the Forest Pest Council had been involved for the past six months with the Tanoak issue. He said that the Disease Committee had isolated fungi and that they believe the Bark Beetle is a secondary problem, but that will take time to confirm.

RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)

Mr. Rowney reported that the next RMAC meeting would be held October 25, 1999, here in Sacramento.

REPORT OF EXECUTIVE OFFICER

Mr. Christopher Rowney, Executive Officer for the Board, provided the Board with an update on Legislation. He then provided the Board with a draft schedule of Board meetings for the year 2000.

Following Board discussion, the first meeting of the New Year would be January 10, 11, & 12, 2000. There was also some discussion on possible travel locations for the year. Nothing was decided.

PUBLIC FORUM

Ms. Susan Maloney provide the Board with copies of a video entitled, "Fire in the Eyes". She then asked seven people from the audience to come forward and form a circle--this represented the size of old growth trees that were being cut.

Ms. Angela Wartes asked for a moment of silence. She said that if mankind does not turn around now, then there is no turning around.

Mr. Joe Blum, NMFS, said that NMFS may have to reconsider the decision to not list North Coast Steelhead.

Mr. Young asked for the timeline.

Mr. Blum said that it would be perhaps another year.

Ms. Traci Thiele provided copies of the "Voices of Humboldt County" paper for the Board.

Mr. Steve Christianson, Freshwater resident, expressed concerns over the use of diesel and herbicides in the area. He said that there needs to be a better process and more citizen involvement.

Mr. Roger Levy said that the Earth is in poor shape and that the Board is in a position to do something about it. The Earth should be considered first.

Rob DiPerna said that there was a hole in Headwaters. He referred the THP 520 and said that Pacific Lumber has contested CDF's stance.

Mr. Richard Gienger asked that the Board deal with the big picture. He said that is was very important to get the Native American Advisory Committee together. He then urged the Board to have a December meeting.

CONTINUED NEW AND UNFINISHED BUSINESS

Mr. Dennis Hall, Regulations Coordinator for the Board, said that there was a need to get the Non-discretionary notice out to publication.

ADJOURNMENT

Chairman Kerstiens said that the October 1999 meeting was adjourned.

Respectfully submitted,

ATTEST:

Christopher P. Rowney
Executive Officer

Robert J. Kerstiens
Chairman

Copies of the attendance sheet may be obtained from the Board office.